

FINAL 2004 REPORT  
ON THE  
TEN-YEAR REVIEW OF  
SOLID WASTE  
MANAGEMENT PERMITS

Virginia Department of Environmental Quality

November 2004

## *Table of Contents*

<i>EXECUTIVE SUMMARY.....</i>	<i>ii</i>
<i>AUTHORITY AND BACKGROUND.....</i>	<i>1</i>
<i>ENVIRONMENTAL COMPLIANCE HISTORY REVIEW.....</i>	<i>2</i>
<i>TECHNICAL REVIEW.....</i>	<i>2</i>
<i>RESPONSE TO COMMENTS.....</i>	<i>3</i>
<i>FINDINGS.....</i>	<i>4</i>
<i>AMENDMENT OR REVOCATION OF PERMITS.....</i>	<i>5</i>

# FINAL 2004 REPORT ON THE TEN-YEAR REVIEW OF SOLID WASTE MANAGEMENT PERMITS – November 2004

## EXECUTIVE SUMMARY

*Under the Virginia Waste Management Act and the Solid Waste Management Regulations, at least once every ten years, the Director must review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel, and technical limitations, standards, or regulations on which the original permit was based. The reviews are to be undertaken in accordance with time periods established by regulation of the Virginia Waste Management Board for different categories of permits.*

*This report presents the results of a review of all active solid waste management facility permits issued after July 1, 1994 through June 30, 1995, as required by statute and regulation. Twelve (12) permits issued during this time frame have not closed and have been reviewed for this report.*

*The review included both an environmental compliance history review and a technical review. The environmental compliance history review consisted of a compilation of the past ten years of inspection records. The findings include the number of inspections conducted each year and the number of alleged violations. The requirements for disclosure statements, including changes to key personnel, were among the criteria examined in the environmental compliance history review. The technical review compared the contents of the existing, individual permits to the contents now required for issuance of a permit. Over the years, the permitting standards have been changed by statute, and by amendments to the governing regulations in March 1993, May 2001, and September 2003. The findings of the technical review identify the components, or modules, that are required in current permits but that have not been included in the existing, individual permits.*

*By statute, if the Director finds repeated material or substantial violations of the permittee or material changes in the permittee's key personnel that would make continued operation of the facility not in the best interest of human health or the environment, the Director shall amend or revoke the permit. Also, the Director may amend the permit to include additional limitations, standards or conditions when the underlying standards have been changed by statute or regulation, or as otherwise provided by law.*

*The Director solicited comments on the report and findings from facilities that were subject to the review. Comments from the public also were solicited on the DEQ website. The comment period closed at 5:00 p.m. on August 27, 2004.*

*Any permit amendment will take place in accordance with the Virginia Waste Management Act and the Virginia Administrative Process Act.*

*The Director retains authority to revoke, amend, or suspend permits in accordance with applicable laws and regulations. The Director also retains authority to address violations of statutory, regulatory, or permit requirements by order or other remedy, including immediate action as necessary, in appropriate circumstances.*

# FINAL 2004 REPORT ON THE TEN-YEAR REVIEW OF SOLID WASTE MANAGEMENT PERMITS – November 2004

## AUTHORITY AND BACKGROUND

This *2004 Report on the Ten-Year Review of Solid Waste Management Permits* is issued pursuant to Virginia statutory and regulatory requirements.

The Virginia Waste Management Act, at Va. Code § 10.1-1408.1 E., requires the Director of the Department of Environmental Quality (Director and Department, respectively) to review and issue written findings on specific aspects of permitted solid waste management facilities at least once every ten years. The reviews are to be undertaken in accordance with time periods established by regulation of the Virginia Waste Management Board for different categories of permits. The pertinent part of Va. Code § 10.1-1408.1 E. states as follows:

*At least once every ten years, the Director shall review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel<sup>1</sup>, and technical limitations, standards, or regulations on which the original permit was based. The time period for review of each category of permits shall be established by Board regulation.*

The same section of the Code addresses amendment or revocation of solid waste management permits based on the required review and findings:

*If, upon such review, the Director finds that repeated material or substantial violations of the permittee or material changes in the permittee's key personnel would make continued operation of the facility not in the best interests of human health or the environment, the Director shall amend or revoke the permit, in accordance herewith. Whenever such review is undertaken, the Director may amend the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation or when any of the conditions in subsection B of § 10.1-1409 exist. The Director may deny, revoke, or suspend any permit for any of the grounds listed under subsection A of § 10.1-1409.*

---

<sup>1</sup> "Key personnel" means the permit applicant and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste operations. See Va. Code §10.1-1400.

The Virginia Waste Management Board established by regulation that the first review of permits would address facilities in existence prior to July 1, 1991 and facilities permitted after July 1, 1991 would be reviewed prior to the ten year anniversary of permit issuance.<sup>2</sup> Twelve (12) solid waste management facilities with permits issued after July 1, 1994 through June 30, 1995 have been reviewed for this report.<sup>3</sup> Two of the twelve permits reviewed have not been constructed and therefore have not been inspected by the Department. A technical review was performed on these permits since the facilities have valid permits issued by the Department allowing them to construct a facility to manage solid waste. Prior to commencing operation, these facilities will be inspected by Departmental staff to ensure construction of the unit meets current standards.

In accordance with the statute, the review included both an environmental compliance history review and a technical review of the permit.

### ENVIRONMENTAL COMPLIANCE HISTORY REVIEW

The environmental compliance history review consisted of a compilation of information from the Department's inspection records. The information included the number of inspections conducted each year and the number of alleged violations. The requirements for disclosure statements, including changes to key personnel, were among the criteria examined in this review.

Staff from the Department's regional offices conducted environmental compliance history reviews for the facilities located in their region. Staff examined all available inspection records between 1994 and 2003. From this review, a simple tabulation was made of the number of inspections conducted and the number of alleged violations recorded. For consistency, worksheets were developed for conducting the reviews. The same worksheet was used for all types of facilities included in the review.

### TECHNICAL REVIEW

The technical review compared the contents of the existing, individual permits for the facilities to the contents now required for issuance of a permit. Over the years, the permitting standards have been changed by statute, and by amendments to the governing regulations in March 1993, May 2001, and September 2003.

Staff from the Department's regional offices and the central office conducted the technical reviews. In particular, each of the 12 permits was reviewed to ascertain

---

<sup>2</sup> Virginia Solid Waste Management Regulations (VSWMR), 9 Virginia Administrative Code (VAC) 20-80-105.

<sup>3</sup> A thirteenth permit was issued during the July 1, 1994 to June 30, 1995 review window, Page County Landfill (Permit No. 579). However, before the date of this publication, the Director administratively revoked this permit, and the revocation has been appealed. Therefore, Permit No. 579 was not reviewed.

whether it contains the documentation required in a current solid waste management facility permit, as specified in the Virginia Solid Waste Management Regulations (VSWMR),<sup>4</sup> including requirements of the Virginia Waste Management Act. The standards of VSWMR address the design, construction, operation, monitoring, closure, and post-closure maintenance for landfills and other solid waste management facilities, as necessary. Applicable permit elements, or modules, or portions of such modules, that are not included in existing, individual permits issued between July 1, 1994, and June 30, 1995 were identified during the review.

The statute requires the Department to review the "technical limitations, standards, or regulations on which the original permit was based." All of the permits subject to this review were issued prior to current regulations. The findings of the technical review are only to identify the components, or modules, that would be required to be included in a permit issued by the Department today that have not been included in the existing, individual permits. The technical review does not include a review of documents that facilities may have developed or submitted for approval in accordance with regulatory requirements, but that have not been included in the permit itself. Therefore, a notation in the technical review that a component or module is not included in a permit does not necessarily imply that a facility lacks a plan approved by the Department addressing that element or that the facility is out of compliance. It may mean, however, that the documents that have been developed, submitted, or approved are not entirely consistent with the current requirements for issuance of a permit.

Additionally, the department issues permit amendments on a routine basis. Information reflected on the Permit Review Checklist reflects contents of the permit on the date the permit was reviewed. Some permits may have been amended since the review of their permit was conducted. The Department will consider any additional amendments or modifications the Department has approved since reviewing the permit when considering criteria for amending permits.

As before, for consistency, a worksheet was developed for conducting the reviews. A separate worksheet, specific to the type of facility, was completed for each facility to document the content of the facility's permit compared to current requirements.

## RESPONSE TO COMMENTS

The Department issued a report in June 2004 and accepted comments from the facilities and the public until August 27, 2004. Two commenters submitted comment letters on the findings contained in this report. Detailed responses to comments are found in Attachment 1 of this final report.

---

<sup>4</sup> 9 VAC 20-80-10, et seq.

## FINDINGS

The findings of the Ten-Year Permit Review are the product of the environmental compliance history review and the technical review. The written findings for individual facilities are contained in Appendices 1 and 2, as described below. Summary information is provided in Tables 1, 2, and 3.

The findings of the environmental compliance history reviews for landfills are provided in Appendix 1, which contains a Compliance Review Worksheet for each landfill subject to this report. The compliance criteria are listed in the first column of each worksheet. The number of inspections conducted at the facility by year is provided in the first two rows of each worksheet. The number of times an alleged violation was cited in the inspection reports for a particular year is displayed in the cell corresponding to the criteria and year. Each worksheet also presents the average number of alleged violations per inspection.

A summary of the environmental compliance history review for all landfills reviewed is included as Table 1. It lists the number of inspections, the number of alleged violations, and the average number of alleged violations per inspection for all landfills subject to this report.

Please note that the compliance inspection frequency was modified in 2003. The frequency of inspections for certain facilities was reduced from monthly to quarterly, resulting in enhanced quality and thoroughness.

Table 2 shows the total alleged violations and the total alleged violations per inspection for individual landfills. These tables show that some facilities have more instances of alleged violations than others do.

The findings of the technical reviews for landfills are provided in Appendix 2, which contains a Permit Review Checklist for each landfill subject to this report. The first part of the worksheet contains information on the landfill, the reviewer, and a history of permitting activities (amendments and variances) for the facility. It also contains a summary of the comparison of the existing permit to the current regulatory requirements. The remainder of the worksheet for each facility details the current requirement, whether that requirement is found in the existing permit, the source of the requirement, and comments.

A summary of the technical review for all landfills reviewed is included as Table 3. It lists the number of differences from current permit standards that were identified for each individual facility reviewed.



## AMENDMENT OR REVOCATION OF PERMITS

As noted, under the governing statute, if the Director finds repeated material or substantial violations of the permittee or material changes in the permittee's key personnel that would make continued operation of the facility not in the best interest of human health or the environment, the Director shall amend or revoke the permit. Also, the Director may amend the permit to include additional limitations, standards or conditions when the underlying standards have been changed by statute or regulation, or as otherwise provided by law. Any permit amendment is subject to the requirements of the Virginia Waste Management Act, Va. Code § 10.1-1400, et seq., and Administrative Process Act, Va. Code § 2.2-4000, et seq.

The Director retains authority to revoke, amend, or suspend permits in accordance with applicable laws and regulations. The Director also retains authority to address violations of statutory, regulatory or permit requirements by order or other remedy, including immediate action as necessary, in appropriate circumstances.

**Table 1- Total Alleged Violations  
Landfills (Sanitary, CDD, and Industrial Landfills)**

Year	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	<b>TOTAL</b>
Number of Inspections	5	13	19	35	35	71	81	87	76	46	468
Alleged Violations	7	21	16	18	13	20	24	8	14	9	150
Average Alleged Violations	1.4	1.62	0.84	0.51	0.37	0.28	0.30	0.09	0.18	0.20	0.32

Average Alleged Violations per Inspection: 0.32

**Table 2- Individual Facilities Alleged Violations  
Landfills (Sanitary, CDD, and Industrial Landfills)**

<b>Facility Name*</b>	<b>Permit #</b>	<b>DEQ Region</b>	<b>Total Alleged Violations</b>	<b>Average Alleged Violations Per Inspection</b>
Pittsylvania Co – Sanitary Landfill	571	SCRO	35	0.80
Middle Peninsula Landfill	572	PRO	8	0.12
Bear Island Paper Company LLC	573	PRO	0	0.00
Ashcake CDD Landfill	574	PRO	1	0.03
Fauquier County Solid Waste Mgmt Facility	575	NVRO	7	0.15
Franklin County – Sanitary Landfill **	577	WCRO	0	0.00
Buchanan County of – Landfill **	578	SWRO	0	0.00
Bethel Landfill	580	TRO	36	0.40
Country South LLC LF	581	WCRO	1	0.03
Botetourt County Landfill	582	WCRO	45	0.98
Brunswick Waste Management Facility LLC	583	PRO	6	0.10
Augusta Regional Landfill	585	VRO	11	0.39

*\*Please note: Loudoun County Permit 570 (not constructed) originally fell within this review period, however 570 was reviewed in combination with Loudoun County Permit 1, in the 2001 report, and therefore was removed from the 2004 review list. In addition, the Director has administratively revoked Page County Permit Number 579, and the revocation has been appealed. Therefore, Permit Number 579 was not reviewed.*

*\*\* Denotes facilities that have not been constructed.*

**Table 3 --Differences from Current Permitting Standards by Individual Facility**

<b>Facility Name*</b>	<b>Permit #</b>	<b>DEQ Region</b>	<b>Number of Differences from Current Permit Standards**</b>
Pittsylvania Co - Sanitary Landfill	571	SCRO	0
Middle Peninsula Landfill	572	PRO	5
Bear Island Paper Company LLC	573	PRO	3
Ashcake CDD Landfill	574	PRO	2
Fauquier County Solid Waste Mgmt Facility	575	NVRO	7
Franklin County - Sanitary Landfill***	577	WCRO	2
Buchanan County of - Landfill***	578	SWRO	5
Bethel Landfill	580	TRO	2
Country South LLC LF	581	WCRO	1
Botetourt County Landfill	582	WCRO	3
Brunswick Waste Management Facility LLC	583	PRO	6
Augusta Regional Landfill	585	VRO	2

*\*Please note: Loudoun County Permit 570 (not constructed) originally fell within this review period, however 570 was reviewed in combination with Loudoun County Permit 1, in the 2001 report and therefore was removed from the 2004 review list. In addition, the Director has administratively revoked Page County Permit Number 579, and the revocation has been appealed. Therefore, Permit Number 579 was not reviewed.*

*\*\*These numbers do not include reviewers' comments on status that do not otherwise reflect actual differences from current standards; nor do these numbers include reviewers' comments that are addressed in documents that have been submitted by the facility, but are currently under review.*

*\*\*\*Denotes facilities that have not been constructed.*

**Appendix 1 - Compliance Review Checklists for Landfills**

**Sanitary Landfills, Construction & Demolition Debris Landfills, and  
Industrial Landfills**

*This appendix is available as a separate download from the  
Department's website.*

## **Appendix 2 - Permit Review Checklists for Landfills**

### **Sanitary Landfills, Construction & Demolition Debris Landfills, and Industrial Landfills**

*This appendix is available as a separate download from the  
Department's website.*

*Note: The technical review does not include documents that facilities may have developed or submitted for approval in accordance with regulatory requirements, but that have not been included in the permit itself. Therefore, a notation in the technical review that a component or module is not included in a permit does not necessarily imply that a facility lacks a plan approved by the Department addressing that element or that the facility is out of compliance. It may mean, however, that the documents that have been developed, submitted, or approved are not entirely consistent with the current requirements for issuance of a permit. Facilities that lack current, facility specific permit modules remain subject to their existing permits, any approved plans, and the standards in the applicable regulations.*

## **Attachment 1 – Responses to Comments**

**Letter 1:**

July 12, 2004  
Ms. Bonnie N. Johnson  
Assistant County Administrator for Public Services  
County of Franklin  
Franklin County Sanitary Landfill, SWP 577  
40 E. Court Street  
Rocky Mount, Virginia 24151

Comment 1: The commenter enclosed a copy of the permit issuance letter for SWP 577 to resolve an alleged difference between approved and current permit standards, which had been identified in a statement contained in the draft report of June 2004.

Response 1: Although the letter provided by the commenter was not a copy of the Part A approval letter that had been identified by the permit reviewer, a copy of the Part A approval letter subsequently was identified in the Department's files.

Comment 2: The commenter enclosed a site map for SWP 577 to resolve, further, the alleged difference between the approved permit and current permit standards identified in comment 1 above.

Response 2: The commenter's submissions, in conjunction with the Part A approval letter identified in the Department's files, were accepted by the Department to resolve an alleged difference between approved and current permit standards as originally identified in the draft report of June 2004. Therefore, in response to the two comments, the total number of differences identified in Table 3 and in the SWP 577 permit checklist from Appendix 2 was reduced in the final report from three to two.

**Letter 2:**

August 26, 2004  
Mr. Charles Plott  
District Manager  
Bethel Landfill, SWP 580  
USA Waste of Virginia Landfills, Inc.  
100 N. Park Lane  
Hampton, Virginia 23666

Comment 1: The commenter stated that an average of approximately 0.40 alleged violations per inspection were noted throughout the report history and that no alleged violations were found during 2002 and 2003. The commenter requested the opportunity to comment on any changes to the permit that may be made as a result of this review. The commenter felt that the facility has a very good compliance history and that no changes to the permit are warranted.

Response 1: The Department appreciates the facility's comments. The number of alleged violations is only one element the director may use to evaluate the need for permit amendments. Facilities will be contacted at a future date if the director intends to amend the permit and the opportunity for comment will be provided.